

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 78 (Senator Salling)

Judicial Proceedings and Education, Energy,
and the Environment

**Juvenile Child Sex Offenders - Juvenile Sex Offender Registry and Prohibition
on In-Person School Attendance**

This bill prohibits a child who has been convicted or adjudicated delinquent of rape or a sexual offense that, if committed by an adult, would constitute a felony from in-person attendance at a public school or a nonpublic school that receives State funds. For children prohibited from in-person attendance at a public or nonpublic school, each local school system must provide alternative educational options aligned with criteria in current law for the education of registered sex offenders and registered juvenile sex offenders. The bill also (1) expands the sexual offenses for which an adult or juvenile must register as a sex offender; (2) adds felony third-degree sexual offenses to the definition of “reportable offense” in current law; and (3) corrects an erroneous cross reference in statute. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Potential significant increase in expenditures in some local school systems to accommodate any increase in the number of children requiring out-of-school instruction; other systems advise that they can accommodate any increase with existing resources. No effect on local revenues. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: Subject to existing procedural requirements, a person who is at least age 18 must register as a sex offender if the person was previously adjudicated delinquent for engaging in sexual contact with a victim who was younger than age 14 and the person performing the act was at least four years older than the victim. The registration requirement applies only if the person was a minor who was at least age 13 at the time of the delinquent act.

Similarly, a juvenile must be included in the registry of juvenile sex offenders if the juvenile is adjudicated delinquent for an act that, if committed by an adult, would be a violation of the same offense. The registration requirement applies only if the juvenile was at least age 14 at the time of the delinquent act.

Current Law:

Registration of Sex Offenders

Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment under specified circumstances, is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland. The registry is maintained by the Department of Public Safety and Correctional Services.

Generally, a sex offender must register with the appropriate supervising authority in the State prior to the registrant's release from incarceration or within three days of the date the registrant is granted probation before or after judgment, a suspended sentence, or a sentence that does not include a term of imprisonment. If the sex offender moves into the State, the registrant must register within three days of the date the registrant establishes residence in the State, begins to habitually live in the State, or applies for a driver's license in the State. If the registrant is not a resident, the registrant must register within three days after the registrant begins employment in the State, registers as a student in the State, or enters the State as a transient.

A sex offender must also register in person with the local law enforcement unit of each county where the sex offender resides within three days of (1) release from any period of imprisonment or arrest or (2) registering with the supervising authority, if the registrant is moving into the State and the local law enforcement unit is not the supervising authority.

Registry of Juvenile Sex Offenders

The State maintains a registry of juvenile sex offenders that is accessible only by law enforcement personnel for law enforcement purposes. A person must be included in the registry of juvenile sex offenders if (1) the person has been adjudicated delinquent for an act that, if committed by an adult, would constitute a violation of specified sexual offenses in the Criminal Law Article and (2) the person was a minor who was at least age 14 at the time the delinquent act was committed. When the juvenile court's jurisdiction over the juvenile registrant terminates, the juvenile registrant must be removed from the registry.

Education of Registered Sex Offenders

Each local school board must develop and adopt a policy that enables a registered sex offender who is a student to receive an education. The State Board of Education (SBE) must develop and adopt guidelines and a model policy to assist local school boards with the development of their respective policies.

Registered sex offenders who are students may receive an education in any of the following locations:

- a location other than a public or nonpublic elementary or secondary school by participating in (1) a Home and Hospital Teaching Program for Students or (2) a program approved by the local school board, as specified;
- a Regional Institute for Children and Adolescents; or
- a nonpublic educational program, as specified.

Reportable Offenses

When a student is arrested for a "reportable offense" or an offense related to the student's membership in a criminal organization, the law enforcement agency making the arrest *must* notify (1) the local superintendent; (2) the school principal; and (3) if appropriate, the school security officer. The law enforcement agency *may* also notify the State's Attorney.

A reportable offense is an offense that (1) occurred off school premises; (2) did not occur at an event sponsored by the school; and (3) includes a crime of violence, as specified in current law, and numerous other specified weapons-, drug-, assault-, and theft-related offenses. If a student is removed or excluded from the student's regular school for a reportable offense, the student's attorney (if applicable) must be invited to participate in a conference between the student or the student's parent or guardian and the principal or county superintendent.

Except by order of a juvenile court with good cause shown, information about a student's arrest is confidential and may not be redisclosed, except as specified, and may not be part of the student's permanent educational record. A superintendent may share the information as part of a confidential file with another superintendent or a nonpublic school in the State in which the student has enrolled. The information shared must include information regarding any educational programming and related services provided to the student. SBE is required to adopt regulations to ensure that information obtained by local superintendents, principals, or school security officers is used only for specified educational purposes and is destroyed when the student graduates, otherwise permanently leaves school, or turns 22 years old, whichever comes first.

Under State regulations, if a student in a public school is arrested for a reportable offense involving rape or a sexual offense that involves another student who attends the same school or rides the same school bus, the local superintendent and school principal must *consider* prohibiting the arrested student from attending the same school or riding the same school bus. In determining whether to separate the student, the superintendent and principal must consider whether the prohibition is necessary or appropriate to protect the physical or psychological well-being of the alleged victim. If the student is later convicted or adjudicated delinquent for the rape or sexual offense, the student may not attend the *same* school or ride on the *same* school bus as the victim.

Home and Hospital Instruction

Under State regulations, local school systems must make instructional services available to students who are unable to participate in their school due to a physical or emotional condition, including but not limited to kidney failure, cancer, asthma, cystic fibrosis, sickle cell anemia, depression, and bipolar disorder. Instructional services must be available to all students during convalescence or treatment time in a medical institution or therapeutic treatment center and at the student's place of residence. Each local school system must determine the manner in which instructional services are delivered, develop safety procedures, and develop a review process to resolve any disagreement that arises. Instructional services must be delivered by an individual with at least a bachelor's degree. Regulations further specify options for the delivery of instruction and requirements for the duration of instruction.

Virtual Schools

Chapter 804 of 2023 defines a virtual school as a public school established by a local board or multiple local boards that uses one or more technologies to deliver instruction to its students entirely or primarily online and in which students and instructors participate remotely from separate locations. It authorizes local school systems, subject to the approval of the Maryland State Department of Education (MSDE), to establish one virtual school

for the elementary, middle, and high school grade bands. Chapter 804 includes additional requirements for teachers employed by virtual schools, students enrolled in virtual schools, and for curricula and services provided by virtual schools. MSDE can revoke approval of a virtual school under specified conditions.

Local Expenditures: The bill likely has varying effects on local school systems, with some systems advising that they can accommodate an increase in the number of students requiring out-of-school instruction with existing programs, and others advising that any increase would require significant expenditures to hire additional teachers or supervisors and find additional space to provide out-of-school instruction. Some local school systems and MSDE indicate that expanded use of virtual learning, currently allowed under State law, may address some of these concerns. As the number of children meeting the bill's conditions for out-of-school instruction will likely fluctuate over time and vary from school system to school system, a reliable estimate of the effect on local operations and finances is not feasible, but it could be significant in some counties and at varying times.

Additional Comments: To the extent that the bill may be in conflict with the federal Individuals with Disabilities Education Act and/or other constitutional or federal due process requirements, it may result in litigation involving local school systems and/or the State. As any such effects are speculative, any State or local costs associated with such litigation are not reflected in this analysis.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 1145 and HB 1493 of 2024.

Designated Cross File: None.

Information Source(s): Harford, Montgomery, and Talbot counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Department of Health; Department of Human Services; Department of Juvenile Services; Department of State Police; Maryland Center for School Safety; Department of Public Safety and Correctional Services; Baltimore City Public Schools; Anne Arundel County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; St. Mary's County Public Schools; Department of Legislative Services

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